

§ 151.6

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(i) The total number of cases in which funds were expended and
(ii) Total expenditures in each of the following categories:

- (A) Payment of counsel fees,
- (B) Provision of bail,
- (C) Court costs and other expenses.

(b) *Quarterly reports.* (1) Quarterly reports for the periods ending November 30, February 28, May 31, and August 31, consisting of lists of U.S. personnel imprisoned and released, shall be submitted, in accordance with departmental implementation of this part to the Department of the Army and by the Department of the Army, as executive agent, to the Director, Washington Headquarters Services, in four copies, on or before the 15th day following the report quarter as follows:

(i) An alphabetical list of U.S. personnel who were imprisoned during the reporting period under sentence of confinement imposed by a foreign country, indicating the individual's home address, grade, and serial number (where applicable), offense of which found guilty, date and place of confinement, length of sentence to confinement imposed, and estimated date of release from confinement.

(ii) A similar list of the names of prisoners released during the reporting period.

(2) An information copy of these lists shall be furnished by the appropriate Military Service commander to the diplomatic or consular mission in the country concerned.

(c) *Other reports.* (1) Each Military Department shall maintain, on a current basis, and submit monthly to the Director, Washington Headquarters Service, in four copies, a list of the most important cases pending, with a brief summary of the salient facts in each case. Selection of the cases to be included shall be left to the judgment of the appropriate officials of each Military Department. Instances of deficiency in the treatment or conditions of confinement in foreign penal institutions or arbitrary denial of permission to visit such personnel shall be considered important cases. Lists covering the previous month shall be submitted on the 6th day of the month following.

(2) Important new cases or important developments in pending cases shall be

reported informally and immediately to the Office of the General Counsel, DoD.

§ 151.6 Resolution of ratification, with reservations, as agreed to by the Senate on July 15, 1953.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive T, Eighty-second Congress, second session, an agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, signed at London on June 19, 1951. It is the understanding of the Senate, which understanding inheres in its advise and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States. In giving its advise and consent to ratification, it is the sense of the Senate that:

(a) The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements;

(b) Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty the Commanding Officer of the armed forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States;

(c) If, in the opinion of such Commanding Officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights the accused would enjoy in the United States, the Commanding Officer shall request the authorities of the receiving State to waive jurisdiction in accordance with the provisions of paragraph 3(c) of Article VII (which requires the receiving

State to give “sympathetic consideration” to such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

(d) A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior U.S. military representative in the receiving State will attend the trial of any such person by the authorities of a receiving State under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the Agreement shall be reported to the commanding officer of the Armed Forces of the United States in such State who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives.

§ 151.7 Fair trial guarantees.

The following is a listing of “fair trial” safeguards or guarantees that are considered to be applicable to U.S. State court criminal proceedings, by virtue of the 14th Amendment as interpreted by the Supreme Court of the United States. The list is intended as a guide for the preparation of country law studies prescribed by § 151.4 and for the determinations made by the designated commanding officer under § 151.4(e) through § 151.4(g). Designated commanding officers should also consider other factors that could result in a violation of due process of law in State court proceedings in the United States.

(a) Criminal statute alleged to be violated must set forth specific and definite standards of guilt.

(b) Accused shall not be prosecuted under an *ex post facto* law.

(c) Accused shall not be punished by bills of attainder.

(d) Accused must be informed of the nature and cause of the accusation and have a reasonable time to prepare a defense.

(e) Accused is entitled to have the assistance of defense counsel.

(f) Accused is entitled to be present at the trial.

(g) Accused is entitled to be confronted with hostile witnesses.

(h) Accused is entitled to have compulsory process for obtaining favorable witnesses.

(i) Use of evidence against the accused obtained through unreasonable search or seizure or other illegal means is prohibited.

(j) Burden of proof is on the Government in all criminal trials.

(k) Accused is entitled to be tried by an impartial court.

(l) Accused may not be compelled to be a witness against him or herself; and shall be protected from the use of a confession obtained by torture, threats, violence, or the exertion of any improper influence.

(m) Accused shall not be subjected to cruel and unusual punishment.

(n) Accused is entitled to be tried without unreasonable (prejudicial) delay.

(o) Accused is entitled to a competent interpreter when the accused does not understand the language in which the trial is conducted and does not have counsel proficient in the language both of the court and of the accused.

(p) Accused is entitled to a public trial.

(q) Accused may not be subjected to consecutive trials for the same offense that are so vexatious as to indicate fundamental unfairness.

PART 152—REVIEW OF THE MANUAL FOR COURTS-MARTIAL

Sec.

152.1 Purpose.

152.2 Applicability and scope.

152.3 Policy.

152.4 Procedures.

152.5 Responsibilities.

152.6 Information requirements.

AUTHORITY: E.O. 12473; 10 U.S.C. 836; 10 U.S.C. 867(g).

SOURCE: 50 FR 6167, Feb. 14, 1985, unless otherwise noted.